

The Honorable Ricardo S. Martinez

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE ASSOCIATION OF HEAD
START AND EARLY CHILDHOOD ASSISTANCE
AND EDUCATION PROGRAM, ILLINOIS HEAD
START ASSOCIATION, PENNSYLVANIA HEAD
START ASSOCIATION, WISCONSIN HEAD START
ASSOCIATION, FAMILY FORWARD OREGON, and
PARENT VOICES OAKLAND,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity as
Secretary of Health and Human Services; U.S.
DEPARTMENT OF HEALTH AND HUMAN
SERVICES; ANDREW GRADISON, in his official
capacity as Acting Assistant Secretary of the
Administration for Children and Families;
ADMINISTRATION FOR CHILDREN AND
FAMILIES; OFFICE OF HEAD START; and TALA
HOOBAN, in her official capacity as Acting Director of
the Office of Head Start,

Defendants.

Case No. 2:25-cv-00781-RSM

**[PROPOSED] ORDER
GRANTING PLAINTIFFS'
MOTION FOR TEMPORARY
RESTRAINING ORDER / TO
POSTPONE EFFECTIVE DATE
OF AGENCY ACTION**

1 This matter came before the Court on Plaintiffs’ Motion for Temporary Restraining
 2 Order/to Postpone Effective Date of Agency Action (“Motion”). The Court has considered the
 3 Motion, supporting declarations, and any responses thereto, the other pleadings and papers filed
 4 in this action, and arguments at the hearing on this Motion, and now rules that Plaintiffs’ Motion
 5 is GRANTED. The Court makes the following Findings of Fact and Conclusions of Law.

6 I. FINDINGS OF FACT

7 1. On July 14, 2025, HHS issued a directive, effective immediately, that reinterprets
 8 the phrase “federal public benefit” in the Personal Responsibility and Work Opportunity
 9 Reconciliation Act of 1996, 8 U.S.C. § 1611, to exclude all “unqualified” immigrants from Head
 10 Start programs. U.S. Dep’t of Health & Hum. Servs., Personal Responsibility and Work
 11 Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of “Federal Public Benefit,”
 12 90 Fed. Reg. 31232 (July 14, 2025) (“Immigrant Exclusion Directive” or “Directive”).

13 2. Head Start is an education program created by Congress through the Head Start
 14 Act, 42 U.S.C. § 9831, and is designed to serve communities that otherwise would not have access
 15 to early childhood education programming and to prepare young children to succeed in school.

16 3. The Immigrant Exclusion Directive seeks to exclude large numbers of children
 17 from Head Start programs based on immigration status. Defendants anticipate that approximately
 18 115,000 Head Start children could be impacted, and that approximately 500,000 children would
 19 no longer be eligible to attend Head Start. *See* Exec. Secretariat, Immediate Off. of the Sec’y,
 20 Dep’t of Health & Hum. Servs., *Final Regulatory Impact Analysis*, Docket No. AHRQ-2025-
 21 0002, at 7-8 (2025).

22 4. Because of the Directive’s ambiguity and Defendants’ public statements, including
 23 that “Head Start is reserved for American citizens from now on,”¹ many more immigrant children
 24 and families will be chilled from enrolling or participating in Head Start programs.

25
 26 ¹ U.S. Dep’t of Health & Hum. Servs., *HHS Bans Illegal Aliens from Accessing its Taxpayer-Funded Programs* (July
 27 10, 2025), <https://www.hhs.gov/press-room/prwora-hhs-bans-illegal-aliens-accessing-taxpayer-funded-programs.html>

1 5. As a result of the Directive, Plaintiffs Washington State Association of Head Start
2 and Early Childhood Assistance and Education Program, Illinois Head Start Association,
3 Pennsylvania Head Start Association, and Wisconsin Head Start Association (collectively, “HSA
4 Plaintiffs”) and their members will experience declines in enrollment and attendant loss of
5 funding, layoffs of teachers and staff, and program closures; damaged relationships with
6 community members and partners and resulting impairment of recruitment and retention
7 activities; increased costs of adopting, implementing, and training on new eligibility policies and
8 procedures; profound uncertainty as to the Directive’s enforcement standards and threat of legal
9 consequences; and frustration of mission, impairment of core activities, and diversion of resources
10 toward responding to the Directive’s impacts.

11 6. As a result of the Directive, Plaintiffs Family Forward Oregon and Parent Voices
12 Oakland (collectively, “Parent Plaintiffs”) have members who will lose access to Head Start’s
13 early childhood education and care because of the Directive’s restrictions on eligibility based on
14 immigration status, as well as the chilling effect on participation and enrollment in Head Start.
15 Loss of access to Head Start will result in major disruptions in the early childhood education and
16 care for members’ children, and interfere with members’ ability to work, attend school, and
17 otherwise support their families. For Parent Plaintiffs, the Directive will frustrate their mission to
18 advance access to early education and care, require them to divert limited staff time and resources
19 away from existing activities toward responding to the Directive’s impacts, and directly interfere
20 with their ability to carry out their core activities.

21 7. Defendant HHS issued the Immigrant Exclusion Directive without notice and
22 comment.

23 8. Defendant HHS issued the Immigrant Exclusion Directive without meaningfully
24 considering important aspects of the issue, including the significant reliance interests of Head
25 Start agencies, Parent Plaintiffs, and Head Start children and families. Defendants also did not
26 meaningfully consider the significant costs and burdens the Directive imposes on Head Start
27

1 agencies, and failed entirely to quantify or acknowledge the educational, economic, social, and
2 health costs for impacted children and families.

3 9. Defendants did not change eligibility criteria for the program by regulation and
4 did not publish the regulation in the Federal Register at least 30 days before it was to take effect.

5 10. Before issuing the Directive, Defendants did not consult a range of stakeholders,
6 including experts in early childhood education and American Indian and Alaska Native programs;
7 assess the educational impacts based on considerations enumerated in 42 U.S.C. §§ 9836a(a)(1)–
8 (2); or ensure that revisions in the standards will not result in the elimination of or reduction in
9 quality, scope, or types of Head Start services.

10 11. The Directive imposes restrictions on participation in Head Start programs without
11 providing guidance or enforceable standards on how to comply with requirements, including
12 whether eligibility is based on the immigration status of the child, parents and guardians, or
13 household members.

14 II. CONCLUSIONS OF LAW

15 12. The Court concludes that Plaintiffs have carried their burden of showing (1)
16 likelihood of success on the merits of their claims under the Administrative Procedure Act
17 (“APA”) (2) that the Directive will cause irreparable harm to Plaintiffs and their members absent
18 postponement of the effective date of the Directive and/or a temporary restraining order enjoining
19 the implementation and enforcement of the Directive; and (3) that the balance of the equities and
20 the public interest weigh in Plaintiffs’ favor. Accordingly, a postponement of agency action
21 pursuant to 5 U.S.C. § 705 of the APA and/or a temporary restraining order is warranted.

22 13. This Court has subject matter jurisdiction to hear Plaintiffs’ claims, including
23 because Plaintiffs have demonstrated Article III standing.

24 14. The Immigrant Exclusion Directive is a final agency action because it is a formal
25 directive that reflects the consummation of a decision-making process from which obligations
26 and consequences flow.

15. The Directive violates the Administrative Procedures Act, 5 U.S.C. §§ 706(2)(A), (B), because it conflicts with the text of the Head Start Act, 42 U.S.C. §§ 9840(a)(1)(B)(i)–(ii); Pub. L. No. 118-47, Div. D, Title II, §§ 238-39, 138 Stat. 460, 681 (2024), and PRWORA, 8 U.S.C. § 1611(c)(1)(B).

16. Head Start is a non-postsecondary education program that is not a “federal public benefit” under PRWORA, 8 U.S.C. § 1611(c)(1)(B).

17. The Directive’s interpretation of 8 U.S.C. § 1611(c)(1)(B) conflicts with the Head Start Act’s eligibility criteria, which list categories of children eligible for Head Start without excluding “unqualified” immigrants. *See* 42 U.S.C. §§ 9840(a)(1)(B)(i)–(ii); §§ 238–39, 138 Stat. at 681.

18. The Immigrant Exclusion Directive is arbitrary and capricious because Defendants relied on improper factors, failed to consider important aspects of the issue, offered an explanation counter to the evidence, and based their decision on implausible reasoning. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1984).

19. The Immigrant Exclusion Directive abandons decades of existing policy without considering important aspects of the issue, including the significant reliance interests of Head Start agencies, Parent Plaintiffs, and Head Start children and families. Defendants did not meaningfully consider the costs and burdens the Directive imposes on Head Start agencies, and failed entirely to quantify or acknowledge the economic, social, and health costs for impacted children and families.

20. The Directive fails to provide clear guidance and enforceable standards on how to comply with its requirements, leaving HSA Plaintiffs’ members at “unfettered discretion” of HHS, with “no method by which the [programs] can gauge their performance” or compliance. *Ariz. Cattle Growers’ Ass’n v. U.S. Fish & Wildlife*, 273 F.3d 1229, 1250 (9th Cir. 2001).

21. The Directive also violates the APA because Defendants failed to observe the necessary procedures required by law. 5 U.S.C. § 706(2)(D).

22. Defendants failed to prescribe eligibility or the participation in Head Start programs “by regulation,” 42 U.S.C. § 9840(a)(1)(A), and failed to publish the regulation in the Federal Register at least 30 days before it was to take effect, 42 U.S.C. § 9839(d). Defendants additionally failed to consult necessary stakeholders before modifying Head Start performance standards. *See* 42 U.S.C. §§ 9836a(a)(1)–(2).

23. The Directive is a legislative rule, which must be published in the Federal Register before taking effect to allow the public to provide comments under the APA. Defendants failed to comply with the notice and comment requirements of 5 U.S.C. § 553(c).

24. As discussed above, Plaintiffs and their members face irreparable injuries, including disruption to early childhood education and care, loss of professional and educational opportunities, decreased enrollment and attendant financial and programmatic consequences for Head Start programs, profound uncertainty about the Directive’s enforcement standards and threat of legal consequences, frustration of mission, diversion of resources, and impairment of core activities. The balance of equities and public interest favor a temporary restraining order because Defendants will suffer no harm if the Court grants the requested relief, Plaintiffs face irreparable harm, and the public interest is served.

III. ORDER

It is now, therefore, ORDERED as follows:

1. Plaintiffs’ Motion for Temporary Restraining Order/To Postpone Effective Date of Agency Action is GRANTED;

2. The effective date of implementation and/or enforcement of U.S. Dep’t of Health & Hum. Servs., Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of “Federal Public Benefit,” 90 Fed. Reg. 31232 (July 14, 2025) is hereby immediately postponed and stayed until such time as the Court can resolve the Second Amended Complaint on the merits.

3. Defendants and their officers, agents, servants, employees, contractors,

representatives, and attorneys, and any other persons who are in active concert or participation with them, are enjoined from implementing and/or enforcing the Directive, U.S. Dep't of Health & Hum. Servs., Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of "Federal Public Benefit," 90 Fed. Reg. 31232 (July 14, 2025).

4. Defendants shall provide written notice of this Order within 24 hours of entry to all Defendants, their officers, agents, servants, employees, contractors, representatives, and attorneys, and any other persons who are in active concert or participation with them, and to all Head Start agencies.

5. Within two (2) business days, Defendants shall serve and file a declaration(s) verifying that they have complied with this Order and detailing what steps, if any, they have taken to do so.

6. This Order shall remain in effect until the close of this case, unless otherwise ordered by the Court.

7. Plaintiffs are not required to post a bond under Federal Rule 65(c).

8. IT IS FURTHER ORDERED that Plaintiffs' moving papers for a preliminary injunction shall be filed no later than _____, 2025; opposition papers to Plaintiffs' request for a preliminary injunction shall be filed by TRO Defendants no later than _____, 2025; Plaintiffs may file a reply in support of their motion for preliminary injunction no later than _____, 2025; and a hearing on Plaintiffs' request for a preliminary injunction will be held on _____, 2025 at _____.

IT IS SO ORDERED.

Dated this ____ day of July 2025

Judge Ricardo S. Martinez

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